

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRUSTEES OF THE PLUMBERS AND
PIPEFITTERS LOCAL NO. 333 HEALTH
AND WELFARE FUND, ET AL,

Case No. 08-14011

Plaintiffs,

v.

FRY MECHANICAL, INC., a Michigan
corporation, RODNEY FRY, an individual,
and WILSON AUCTION & REALTY CO.,
jointly and severally,

Defendants.

**ORDER DENYING MOTION FOR
TEMPORARY RESTRAINING ORDER**

The Court reviewed Plaintiffs' Complaint, Motion for Injunctive Relief to Hold Proceeds of Auction in Escrow, and Brief in Support of Motion for Injunctive Relief to Hold Proceeds of Auction in Escrow.

The Court also conducted a telephone hearing on September 18, 2008 at 3:00 p.m. with the following parties present: Edward Pasternak, Attorney for Plaintiffs; Steven St. Amant, Attorney for Defendant, Fry Mechanical; and Mike Messenger, Attorney for the unnamed Defendant/Interested Party, United Bank and Trust.

Based on the discussion held, Plaintiffs' Motion for Temporary Restraining Order is **DENIED**.

Plaintiffs may amend their Complaint to add United Bank and Trust as a

Defendant and to dismiss Defendant Wilson Auction & Realty Co. Defendant Fry Mechanical may assert a counterclaim for “target funds” alleged to be due from Plaintiff. When the pleadings are in order and all parties have answered, the Court will hold a Scheduling Conference. In the interim, parties may proceed with discovery.

IT IS ORDERED.

/s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: September 22, 2008

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on September 22, 2008.

s/Linda Vertriest
Deputy Clerk